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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/723,761	11/26/2003	John Gavin MacDonald	KCX-1068 (19800)	9700

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DORITY & MANNING, P.A.
POST OFFICE BOX 1449
GREENVILLE, SC 29602-1449

EXAMINER

CHAPMAN, GINGER T

ART UNIT	PAPER NUMBER
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3761

DATE MAILED: 08/02/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/723,761	Applicant(s) MACDONALD ET AL.	
	Examiner Ginger T. Chapman	Art Unit 3761	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 27 April 2006.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 17, 18, 22-28, 32 and 33 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 17, 18, 22-28, 32 and 33 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 12 October 2005 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Status of the claims

As per Applicants' amendment filed 4/27/2006, claims 1-16, 19-21 and 29-31 are cancelled, claims 32-33 are added, claims 17-18, 22-28 and 32-33 are pending in the application.

Drawings

The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the "odor sorbent substrate positioned between the baffle and the core and wrapped around the absorbent core", as recited in independent claim 17, must be shown or the features canceled from the claim. No new matter should be entered.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will

be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Claim Rejections - 35 USC § 102/ Claim Rejections - 35 USC § 103

The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

Claims 17-18, 22-27 and 32-33 are rejected under 35 U.S.C. 103(a) as being unpatentable over Fujinami et al (US 3,939,838) in view of Tanzer et al (EP 348,978).

With respect to claims 17 and 33, Fujinami et al, in Figures 2, 5 and 6, disclose a personal care product (21, 51, 61) comprising a liquid impervious baffle (25, 55, 65), a liquid pervious liner (22, 52, 62), an absorbent core (23, 53, 63) positioned between baffle and liner, and an odor sorbent substrate (26, 56, 66) that is coated with activated carbon particles (col. 4, l. 10) and binder (col. 3, l. 50-53) positioned between the baffle (25) and the core (23) (fig. 2).

Fujinami discloses the invention substantially as claimed except for the substrate located wrapped around the core. Tanzer, at p. 5, ll. 3-4 teaches that the odor sorbent substrate should be positioned within the article so as to intersect vapors emanating from the article and thereby absorbs the malodors emanating from the article. As seen in Figures 11 and 12, Tanzer et al disclose an odor sorbent substrate (130) wrapped around (120, 122) the absorbent core (116) so that one or more sides (140) of the core are left open. Therefore it would have been obvious to one having ordinary skill in the art at the time the invention was made to form the odor sorbent substrate of Fujinami wrapped around the absorbent core since Tanzer states at p. 5, ll. 4-12 that the advantage to locating the odor sorbent substrate wrapped around the absorbent core within

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the article allows it to absorb malodors emanating from the article and it has been held that rearranging parts of an invention involves only routine skill in the art. *In re Japikse*, 86 USPQ 70.

With respect to claim 18, Fujinami et al disclose the personal care product (11) is a feminine hygiene product.

With respect to claims 22-24, Fujinami et al disclose the activated carbon particles are present in an amount between about 2 and 80 weight percent and between about 10 and 30 weight percent of the substrate (56) on a dry basis (col. 4, ll. 38-39).

With respect to claim 25, Fujinami et al disclose the substrate (26, 56, 66) contains a nonwoven web (col. 3, l. 24-25).

With respect to claim 26, Fujinami et al disclose the substrate (26, 44, 56, 66) contains a wetlaid or airlaid paper web (col. 3, ll. 39-42).

With respect to claim 27, in Figure 4 Fujinami et al disclose the substrate (44) contains a film (col. 2, ll. 47-50 and col. 3, ll. 30-31).

With regard to claim 31, the method of applying the ink is a product-by-process limitation. The claims are drawn to a product, which does not depend on its method of production, and in each case the product is the same. Fujinami discloses applying the ink to the substrate, as described at c. 3, ll. 45-55, Fujinami therefore discloses the product and fulfills the claimed limitations.

Claim 28 is rejected under 35 U.S.C. 103(a) as being unpatentable over Fujinami in view of Tanzer and further in view of Pomplun et al (US 6,713,414).

With respect to claim 28, Tanzer et al disclose the substrate can be formed with a binder but do not expressly disclose a binder. Pomplun et al teach a personal care product (col. 1, ll. 19-20) having activated carbon particles for odor control (col. 26, ll. 58-66) and styrene-acrylic binder (col. 14, l. 43). Pomplun teaches at column 14, lines 20-21 that such a binder can help reduce the stiffness of the personal care product to which it is applied. Therefore it would have been obvious to one having ordinary skill in the art at the time the invention was made to form the personal care product of Tanzer using styrene-acrylic binder as taught by Pomplun in order to provide a personal care product with reduced stiffness since Pomplun states at column 14 lines 26-27 that an undesirable amount of stiffness is detrimental to the handling of the product during processing.

Response to Arguments

Applicant's arguments filed 4/27/06 have been fully considered but they are not persuasive. Applicant submits the following:

1. With regard to the drawing objections made of record in the previous Office actions, Applicant submits that since Figure 6 shows "a tissue wrap 37" wrapped around an absorbent core and Figure 4 shows "a transfer delay layer 17" positioned between a baffle and an absorbent core, Applicant does not need to depict the claimed "an odor sorbent substrate positioned between the baffle and absorbent core and wrapped around the absorbent core" as recited in independent claim 17. This argument is not persuasive because, under 37 CFR 1.83(a), the drawings must show every feature of the invention specified in the claims. The odor sorbent substrate is an essential feature relied on for patentability, therefore, the "odor sorbent substrate

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positioned between the baffle and the core and wrapped around the absorbent core”, as recited in independent claim 17, must be shown or the feature canceled from the claim.

2. Applicant's arguments with respect to claim 17 have been considered but are moot in view of the new grounds of rejection.

Conclusion

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

This is a RCE of applicant's earlier Application No. 10/723,761. All claims are drawn to the same invention claimed in the earlier application and could have been finally rejected on the grounds and art of record in the next Office action if they had been entered in the earlier application. Accordingly, **THIS ACTION IS MADE FINAL** even though it is a first action in

this case. See MPEP § 706.07(b). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no, however, event will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ginger T. Chapman whose telephone number is (571) 272-4934. The examiner can normally be reached on Monday through Friday 8:30 a.m. to 5:00 p.m..

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Tatyana Zalukaeva can be reached on (571) 272-1115. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Ginger Chapman
Examiner, Art Unit 3761
07/21/06



TATYANA ZALUKAEVA
SUPERVISORY PRIMARY EXAMINER

